

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR WARMING PRODUCT LIABILITY LITIGATION MDL No.: 15-md-02666 (JNE/FLN)

This Document Relates To:

PAUL PICKETT,

Plaintiff,

Civil Action No.: 17-CV-02415-JNE-FLN

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

NOW COMES Plaintiff, Paul Pickett, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1068], and by and through undersigned counsel submits this, his Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

1. In June of 2015, Mr. Paul Pickett contacted undersigned counsel regarding an infection and subsequent treatment that he experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery.
2. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicated that a Bair Hugger device was used during the original surgery.
3. On June 30, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.

4. Efforts to have Mr. Pickett complete the Plaintiff Fact Sheet were complicated by him not answering phone calls, returning voice messages, or responding to contact letters or emails.
5. Phone calls by Kennedy Hodges staff went unanswered on the following dates: July 11, 2017, August 9, 2017, September 13, 2017, September 26, 2017, October 26, 2017, November 2, 2017, November 14, 2017, November 17, 2017, December 13, 2017, December 29, 2017, and February 1, 2018.
6. Additionally, written correspondence consisting of letters or emails requesting that Mr. Pickett contact Kennedy Hodges was sent on the following dates: June 30, 2017, October 26, 2017, November 3, 2017, November 17, 2017, and February 1, 2018.
7. While counsel has diligently continued their attempts to contact Mr. Pickett for several months, those efforts have not been successful to date.
8. As a result, counsel has not been able to obtain the necessary information to complete the Plaintiff Fact Sheet for this claim.

Accordingly, undersigned counsel request that the current action not be dismissed with prejudice and that Mr. Pickett be given an additional sixty (60) days to contact counsel in order to provide the necessary information to cure any alleged deficiencies with the Plaintiff Fact Sheet and to continue the case.

Dated: February 8, 2018

KENNEDY HODGES, LLP

By: /s/ David W. Hodges
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on February 8, 2018 a copy of the forgoing instrument was served on all parties via the Court's electronic filing system.

By: /s/ David W. Hodges
David W. Hodges